



V.N. SHUKLA'S CONSTITUTION OF INDIA (8th ed. 1990). By M.P. Singh. Eastern Book Company, Lucknow. Pp. lxiv + 48 + 896. Price Rs. 200.

CONSTITUTIONAL LAW is one of the subjects which is fast changing, developing and expanding. Such a sensitive branch requires a continuous watch and evaluation of the constitutional developments. This makes it necessary for the constitutional law expert to maintain a continuous contact with the developments in this field. He has to keep his eyes open on all the fronts—legislative, executive, judicial and extra-constitutional forces as well. In these circumstances to write a book or to revise an old edition on constitutional law is not an easy job.

The first edition of the book¹ was published on 1 June 1950 after just six months of the commencement of the Constitution of India when there was hardly much development. In view of this difficulty he had to base his study on the historical background, in particular *Constituent Assembly Debates* and the comparative constitutional law literature. In view of the short span of working of the Indian Constitution, Shukla confessed that it was a difficult job to write a treatise on the Indian Constitution but he kept his fingers crossed for giving a “best commentary on the constitution of our country”.

D.K. Singh in the sixth and seventh editions though retained “the general pattern, style and format”, yet made the book “a multidimensional work” which no constitutional lawyer can “afford to miss on their bookshelves.”² Singh in the present edition³ uses “other resources” and says that in the book he has at places “rewritten and rearranged” and “treated afresh” but “full care has been taken to adhere to the style of Professor Shukla.”

The book opens with an addenda which brings the text of this treatise up-to-date till 1990 but this simply narrates the recent case law with no introspection.

This first part, which according to Singh is “rewritten and rearranged”, is the fundamental rights chapter. Article 12 and specially the expression “other authorities” have attracted numerous cases and it is one of the leading provisions in the chapter on fundamental rights. Singh could have avoided the exhaustive historical survey of the case law on this article and confined the discussion to a few recent leading cases to show readers the

1. V.N. Shukla, *Constitution of India* (1950).

2. C.M. Jariwala, “V.N. Shukla’s Constitution of India”, 18 & 19 *Banaras Law Journal* 174 at 177 (1982-83). In this book review the present reviewer has brought out in detail the highlights and the task incomplete in the seventh edition.

3. M.P. Singh, *V.N. Shukla’s Constitution of India* (8th ed. 1990). The present reviewer concentrates on this edition only.



up-to-date developments in this area. Further in order to better understand the approach of the judiciary, a specific distinction could have been drawn, on the basis of the case law between the authorities which do or do not come within the definition of "the State" under article 12.

The chapter on fundamental right to equality has a new addition of "New approach to equality" where "now for the application of article 14 one need not allege any discrimination *vis-a-vis* others" because "arbitrary or unreasonable actions, according to the Court, are *per se* discriminatory." In this new treatment one finds not only recent judgments but an overall viewpoint with a critical approach. One rearrangement is made in article 15(4) where the decisions relating to article 16(4) are discussed. The present reviewer is of the opinion that without exposing the readers with the provision of article 16, they will not be in a position to appreciate the discussion. It would have been better had this part been discussed in article 16(4). There is one more point which requires consideration for further editions. For the last one decade a number of cases relating to admission to educational institutions and the right to equality have been handed down by the Supreme Court and the High Courts. The monthly issue of the *All India Reporters* deals with not less than ten cases in this area. Moreover, the law of education is now developing in India and it is time that the book also gives a specific treatment to this aspect in the present chapter.

The right to life and personal liberty, one of the shortest worded fundamental right, has seen a flood of litigation and at the silver jubilee of this right the personal liberty plant started giving new shoots and by 1990 it has become a banian tree having ever growing expansive tendency. In view of these developments the book also needed expansion. Singh has tuned article 21 to this wave length by making three additions: (i) "from procedure established by law to due process of law"; (ii) "relationship among articles 14, 19 and 21"; and (iii) "expanding horizons of Article 21." The off-shot of judicial dynamism in article 21 is also echoed in the chapter on preventive detention where the court laid down, *inter alia*, 'post-preventive detention conditions', a point which is also taken care of.

The book while dealing with questions of standing in article 32, also gives a bird's eyeview of the development in the field of public interest litigation or social action litigation. However, recently the judiciary has tried to channelise the *pro bono publico* litigation and laid down guidelines which require to be incorporated in the present discussion to complete the picture.

In the discussion on distribution of legislation powers, two points require special mention. The residuary legislative power section requires a more detailed treatment. A provision which was considered in 1974 by a person no less than Setalvad⁴ as "an insignificant provision in the Indian Constitution" has now given rise to "great controversy amongst the academics

4. M.C. Setalvad, *Union and State Relations under the Indian Constitution* 54 (1974).



and the judges".⁵ The constitutional law students need more exposure to these developments. It further requires updating with *Mittal*⁶ and *Khandewal*⁷ cases. And lastly, the conclusion added at the end⁸ does not give either a clear picture of the present position or his viewpoint which he has given consistently in other parts of the book. Singh has highlighted an important development in the field of repugnancy which may arise between the Union and State laws made within their exclusive jurisdictions. In such a case, the answer of D.K. Singh was, "the construction of Article 254(1) appears logical"⁹ or according to other writers "Article 254(1) will apply" but Singh relying on the doctrine of 'paramountcy of parliamentary legislation,' advocated "these issues may be resolved under Article 246."¹⁰ It is submitted that the support of article 254(1) would allow the state autonomy to take some breath in the centralised environment of the Indian federal structure. This is possible if we look to the marginal note to article 254 and the opening provision of the said article where no reference is made to the concurrent list.

Now coming to the "afresh" treatment in the section on freedom of trade and commerce, Singh has added new cases wherever necessary. One will find the position from *Malwa Bus Service*¹¹ to *Meenakshi*¹² lucidly summarised.¹³ The present edition finds a new paragraph¹⁴ where the discussion on the freedom of trade and commerce includes a repeated reference to the expression 'the citizen.' This gives rise to the demand for an afresh discussion on the relationship between articles 301 and 19(1)(g). There is a demand from one quarter¹⁵ for the abolition of part XIII of the Indian Constitution but this point has not attracted the attention of Singh. Further the Sarkaria Report,^{15a} after long deliberations, suggested minor modifications in this part of the Indian Constitution. The present reviewer also subscribes to this view. It is a matter of great surprise that the book has completely omitted this Report which brings out new directions to the Centre-state relations. It is hoped that the next edition will do justice to this aspect.

Another article which Singh claims to have been "treated afresh" is article 368, at the end of the discussion on the recent judicial approach. Though it is not an "afresh" treatment, yet here one gets an exposure as to how best

5. Ali Mehdi, *Residuary Legislative Powers in India* 117 (1990).

6. *S.P. Mittal v. Union of India*, A.I.R. 1983 S.C. 1.

7. *Khandewal Metal & Engg. Works v. Union of India*, A.I.R. 1985 S.C. 1211.

8. *Supra* note 3 at 524.

9. D.K. Singh, *V.N. Shukla's Constitution of India* 488 (1982).

10. *Supra* note 1 at 532.

11. *Malwa Bus Service v. State of Punjab*, A.I.R. 1983 S.C. 634.

12. *Meenakshi v. State of Karnataka*, A.I.R. 1983 S.C. 1283.

13. *Supra* note 1 at 602.

14. *Id.* at 603.

15. P.K. Tripathi, "Suggesting the Repeal of Part XIII of the Constitution", *A.I.R. Journal* 33 (1985).

15a. Government of India, *Report of the Commission on Centre-State Relations* (1988).



one can synthesise in a critical way the pronouncements and in turn an impetus to research.

Appendix I deals with the Amendment Acts from the Forty-First Amendment Act 1976 to the Sixty-Fourth Amendment Act 1990. This part gives the readers at one place detailed provisions relating to the above constitutional amendments and also at places the statement of objects and reasons. The 'Table of Cases' comes as usual in the beginning and the book ends with the 'Subject Index'. New cases are added to the 'Table of Cases' but the 'Subject Index' of the previous edition continues despite the fact that some titles are 'rewritten' or added 'afresh' and thus this part needs to be rewritten in the next edition.

The present edition of the book deserves appreciation for three reasons : *First*, it has not only given recent case law and exposed the readers to a critical approach but also opened new frontiers and at places summed up the position at the end of the discussion to give the readers a clear position. *Second*, more law literatures are suitably added to give the academics' viewpoints as well, which is an impetus to research. *Third*, it has not just maintained the standard but has enhanced the prestige of the book. Is not the dream of Shukla as mentioned above come true ?

In the book, the undergraduate, post-graduate students, competitive examiners and now research scholars also will get detailed and up-to-date case law, and law literatures with a critical approach and comparative constitutional law informations. It is a lawyer's book as well. The scholars of multi-disciplines may be tempted to have it in view of its lucid style and valuable and detailed informations. Thus it is a multi-purpose treatise which will attract more readers interested in the study of Constitutional Law of India. The present reviewer has no hesitation in saying that today the book has attained the status of one of the leading commentaries on the Constitution of India.

The Eastern Book Company also deserves congratulations for the beautiful get-up, flawless printing and quality paper. The company deserves to be ranked as 'A' class law publishers of India. One point which is depressing is the high price of the eighth edition. It is agreed that the cost of printing and quality paper have gone up but the purchasing capacity of the students, teachers, the constitutional law readers has not increased comparatively and the reviewer feels that the book's consumers may not be able to afford to have it on their bookshelves. If it has to remain a widely read book, it is time that the publishers must do something in this regard. The last point, the eighth edition came out after a span of eight years. A book, especially on constitutional law, has to be updated every year to compete the market, otherwise it will lose its readers.

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